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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**UNITED STATES OF AMERICA**

**3:16-CR-00051-BR-02**

**v.**

**GOVERNMENT'S SENTENCING  
MEMORANDUM**

**JON RITZHEIMER,**

**Sentencing Date: November 30, 2017  
2:00 p.m.**

**Defendant.**

The United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and through Ethan D. Knight, Geoffrey A. Barrow, and Craig J. Gabriel, Assistant United States Attorneys, submits this memorandum for defendant Jon Ritzheimer's sentencing, which is currently set for Thursday, November 30, 2017, at 2:00 p.m.

## **I. Summary of the Government’s Position**

The government is recommending a sentence of 24 months in prison, to be followed by 3 years of supervised release.

## **II. Factual Background**

### **A. Overview**

On August 15, 2016, defendant Ritzheimer pleaded guilty under Rule 11(c)(1)(B) to Count 1 of the Superseding Indictment, charging Conspiracy to Impede Federal Officers by Force, Threat, or Intimidation under 18 U.S.C. § 372.

After extensive pretrial litigation and two jury trials, the Court is well aware of the facts surrounding the occupation of the Malheur National Wildlife Refuge (“MNWR”) from January 2 through February 11, 2016. That background is also set forth in paragraphs 1q–28b of the Presentence Investigation Report (“PSR”), with paragraphs 19–24 specifically highlighting some of Ritzheimer’s involvement in the conspiracy.

### **B. Late December 2015**

In December 2015, defendant left his family in Arizona and traveled to Harney County, Oregon, where he met with convicted coconspirators Jason Patrick, Joseph O’Shaughnessy, Blaine Cooper, and Corey Lequieu, among others. In multiple videos created in late December 2015, and posted online, defendant is seen recruiting other “patriots” and “militiamen” to travel to Harney County to “take a stand.” (These videos will be provided to the Court and defense counsel in a separate filing.) Specific videos taken before the takeover of the MNWR show the following:

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1. In late December 2015, defendant appears in a video in Harney County wearing Marine Corps camouflage and holding an AR-15 rifle. In the video, defendant states, “The gameplan: We’re here in Oregon, and the mission is to unfuck all of this [indicating to a map]. So I’m hoping the rest of the militiamen and everybody out there is ready, because we’re going to initiate this mission.”

2. On or about December 25, 2015, a video entitled BREAKING MESSAGE FROM MARINE JON RITZHEIMER! BLM ALERT!, featuring the defendant, was posted online. In the video, defendant appears to be saying goodbye to his family from Harney County: “Your daddy swore an oath . . . to protect the Constitution against all enemies, foreign and domestic, and that’s why he couldn’t be with you on Christmas, and that’s why I can’t be with you on New Year’s.” Defendant goes on to rail against “the oppression and tyranny that’s taking place in Oregon,” and how “We The People need to take a stand.” Later in the video, defendant speaks into the camera and addresses Dwight Hammond remotely: “It’s real simple, Dwight. You want to die in prison labeled as a terrorist by these oppressors? Or do you want to die out here with us, as a free man? I want to die a free man.”

3. On or about December 26, 2015, defendant appeared in a video from Harney County with O’Shaughnessy, Cooper, and Patrick. In the video, the four convicted defendants issue a “call out” for “patriots” to be in Burns, Oregon, on January 2, 2016.

### **C. The Takeover of the Refuge on January 2, 2016**

On Saturday, January 2, 2016, defendant was with the very first convoy of vehicles carrying individuals to forcibly take over the MNWR. Defendant and others were armed when they first entered the Refuge. This initial group of occupiers cleared the government buildings,

blocked the front gate, and posted armed guards in the tower and entrances to the Refuge. According to Walter “Butch” Eaton, who was present during the takeover, defendant had a military-style AR-15 during the initial takeover, and defendant described himself as a “triggerman.”

After the takeover was complete, Ammon Bundy and others arrived on the scene later in the day. Ammon Bundy, Lavoy Finicum, Blaine Cooper, defendant, and others, then produced and posted a video from the front entrance of the MNWR. Defendant, who was wearing an armored vest and carrying an AR-15, spoke at the end of the video about how they needed more people there at the Refuge.

#### **D. Occupation of the Refuge**

When the occupation began, defendant immediately assumed a leadership position in the conspiracy. (Indeed, the parties have stipulated to a 2-level upward adjustment for defendant’s leadership role.) In the “Chain of Command” paperwork left at the Refuge by the occupiers, defendant is consistently listed as a leader of the Infantry Squad, Constitutional Defense Forces, and Rapid Response Team, which were all responsible for performing armed guard duty at the MNWR. *See, e.g.*, attached Exhibits 197, 206, and 212, from the first jury trial. (Defendant is identified by the nickname “Rogue,” and defendant still raises money online under the moniker “Rogue Infidel.”)

Then, on the night of January 5, 2016, the occupiers of the MNWR mistakenly believed that the FBI was coming to the Refuge. Defendant was recorded on video wearing an armored vest and carrying an AR-15 at the entrance to the Refuge. He is highly agitated and states that he and others were there to “maintain a defensive posture.”

In a subsequent video from inside a building on the MNWR, defendant complains about hate mail the occupiers have received. Defendant ends the video by recruiting “patriots” to come to the Refuge and show support: “Enough talk, now it’s time for action.”

On January 22, 2016, defendant posted the following picture of himself wearing an armored vest and carrying an AR-15 while standing on top of the sign in front of the MNWR:



Defendant left the Refuge in late January 2016. He was arrested without incident in Arizona on January 26, 2016.

### III. Advisory Sentencing Guidelines Calculation

The government recommends that the Court adopt the following guideline calculation:

- The **Base Offense Level is 10** under U.S.S.G. § 2X1.1(a) and U.S.S.G. § 2A2.4(a).
- Because a dangerous weapon (including a firearm) was possessed and its use was threatened, a **3-level upward adjustment** applies under U.S.S.G. § 2A2.4(b)(1)(B) and U.S.S.G. § 1B1.3(a)(1)(B).
- For defendant's acceptance of responsibility, a **2-level downward adjustment** applies under U.S.S.G. § 3E1.1. (Even though the defendant unsuccessfully moved to withdraw his guilty plea, the government is still recommending that he receive credit for acceptance of responsibility.)
- Because the offense was calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct, a **9-level upward departure** applies under Application Note 4 to U.S.S.G. § 3A1.4.
- For defendant's early disposition of this complex case, a **3-level downward variance** applies under 18 U.S.C. § 3553(a).
- For mitigation as outline in defendant's sentencing submission, an additional **2-level downward variance** applies under 18 U.S.C. § 3553(a).

In the government's opinion, Ritzheimer therefore has a Total Offense Level of 17, after departures and variances. Defendant has no prior criminal history. In Criminal History Category I, Offense Level 17 yields an advisory guideline range of 24–30 months in prison.

### IV. Government's Recommendation

The government is recommending a sentence of 24 months in prison, to be followed by 3 years of supervised release. Given defendant's position as a leader during the takeover and occupation of the MNWR, the government believes that a significant prison sentence is

appropriate “to reflect the seriousness of the offense, to promote respect for the law [and] to afford adequate deterrence to criminal conduct” under 18 U.S.C. § 3553(a).

The government understands and recognizes the abundant mitigation presented by defense counsel regarding the history and characteristics of the defendant. The government has balanced the mitigating and aggravating factors in defendant’s case in arriving at its sentencing recommendation.

**V. Restitution**

Defendant Ritzheimer has previously stipulated to a \$10,000 restitution order in this case. *See* ECF No. 2259.

**VI. Conclusion**

For the reasons stated above, the government respectfully recommends a sentence of 24 months in prison, to be followed by 3 years of supervised release

Dated this 22nd day of November 2017.

Respectfully submitted,

BILLY J. WILLIAMS  
United States Attorney

*s/ Craig J. Gabriel*

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